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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,706	02/10/2004	Diego Andres Hoic	2664-000003/US	3333
23909	7590	10/13/2006	EXAMINER	
COLGATE-PALMOLIVE COMPANY			CLAYTOR, DEIRDRE RENEE	
909 RIVER ROAD			ART UNIT	PAPER NUMBER
PISCATAWAY, NJ 08855			1617	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,706

Applicant(s)

HOIC ET AL.

Examiner

Renee Claytor

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 27-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/25/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's election of Group I in the reply filed on 9/5/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-26 are being examined on their merits herein and claims 27-46 are withdrawn from consideration, as they don't read on the elected group. The election requirement is deemed proper and made **FINAL**.

Objections

Claims 2 and 15 objected to because of the following informalities: the sentence should read as "...wherein the tooth coating is selected from the group consisting....". Appropriate correction is required.

Claims 10-11 and 23-24 objected to because of the following informalities: the colorant is described as titanium dioxide in the claims; however, it depends from claims in which the colorant is titanium oxide. Claims 10-11 and 23-24 should use the same terminology of titanium oxide. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6-12, 14, 16-17 and 19-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Baig et al. (U.S. Patent 6,685,920) in view of Yamagishi et al. (U.S. Patent 6,491,898).

Baig et al. teach a composition to treat and protect the teeth from erosion by the use of a polymeric material that includes agents such as polyacrylates and polymethacrylates in an amount from about 1% to about 35% (meeting the limitation of claims 1, 3, 11, 14, 16, and 24; Col. 2, lines 42-60; Col. 4, lines 39-55; Col. 6, lines 28-33).

Baig et al. do not teach a tooth whitening composition comprised of pearlescent particles.

Yamagishi et al. teach a tooth coating composition comprising a film-forming polymer (Col. 1, lines 32-36). The composition further contains pigments such as mica titanium and titanium oxide in amounts ranging from 0.1-10% (meeting the limitation of claims 4, 6-12, 14, 17, and 19-25; Col. 4, lines 25-29 and 38-44).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Baig et al., which teaches a tooth coating composition comprised of polymeric material, with Yamagishi et al. which teach a tooth coating composition comprised of the pearlescent particles mica titanium and titanium oxide. One having ordinary skill in the art would have been motivated to combine the teachings of Baig et al. and Yamagishi et al. to formulate a tooth whitening composition that will have a strong affinity for the enamel surface to produce the desired

Art Unit: 1617

surface protection effect (polymeric material), and will also impart aesthetic property and gloss to the teeth (pearlescent particles).

Claims 2, 5, 13, 15, 18 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Baig et al (U.S. Patent 6,685,920) and Yamagishi et al. (U.S. Patent 6,491,898) as applied to claims 1, 3-4, 6-12, 14, and 16-17 above and in further view of Cohen et al. (U.S. Patent 6,729,878).

Baig et al. and Yamagishi et al. teach a tooth coating composition comprised of a film-forming synthetic polymer and pearlescent particles as discussed above.

Baig et al. and Yamagishi et al. do not teach a tooth whitening composition comprised of colorants or other active ingredients.

Cohen et al. teach a composition that can be painted on the surface of the tooth to provide whitening to the tooth (meeting the limitation of claims 2 and 15; Col. 6, lines 25-30; Col. 10, lines 63-67). The composition contains fluoride, which reduces dental caries (meeting the limitation of claims 13 and 26; Col. 6, lines 44-45). The composition further contains colorants such as FD&C Red No. 3 (meeting the limitations of claims 5 and 18; Col. 10, lines 9-16).

Accordingly it would be obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Baig et al. and Yamagishi et al. which teach a tooth coating composition that will have a high affinity with the tooth and impart a gloss to the tooth, with Cohen et al. which teach a tooth whitening composition that contains colorants and will reduce dental caries. One having ordinary skill in the art

Art Unit: 1617

at the time the invention was made would have been motivated to combine the teachings of Baig et al. and Yamagishi et al. with Cohen et al. to formulate a tooth whitening system that will improve the appearance and character of teeth.

Conclusion

No claims are allowed.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER